

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

CONOPCO, INC. d/b/a/ UNILEVER,

*Plaintiff,*

v.

2026 THIRD REALTY, LLC, HAE HEE KIM, COURTNEY HAEJIN KIM, DANIEL HUNGSIK KIM, BRYANT KIM, K & K FOOTWEAR, INC., AND JOHN DOES 1-10, inclusive,

*Defendants.*

Case No. \_\_\_\_\_

**DECLARATION OF MELANIE LUCA IN  
SUPPORT OF CONOPCO, INC. D/B/A/  
UNILEVER'S APPLICATION FOR AN *EX  
PARTE* TEMPORARY RESTRAINING ORDER;  
ORDER AUTHORIZING *EX PARTE* SEIZURE;  
ORDER TO SHOW CAUSE FOR PRELIMINARY  
INJUNCTION; AND ORDER ALLOWING  
EXPEDITED DISCOVERY**

**FILED UNDER SEAL**

I, Melanie Luca, declare as follows:

1. I am a resident of the state of New Jersey, over the age of 18, and am competent to make this declaration which is based upon my personal knowledge of the facts stated herein or on the business records that were made in the regular course of business. If called as a witness, I could and would testify to the statements made herein. I make this declaration in support of Plaintiff Conopco, Inc. d/b/a Unilever's ("Unilever") application for entry of an *ex parte* temporary restraining order, order authorizing an *ex parte* seizure, order to show cause for preliminary injunction, and order allowing expedited discovery (the "TRO Application").

2. I am the United States Go to Market Quality Manager at Unilever. I have been working at Unilever since July 2011, with roles in Research and Development, and, most recently, Quality. I am responsible for the quality of Unilever's products in the marketplace, across multiple brands, including the HELLMANN'S brand. As part of my job responsibilities, I am familiar with the labels, packaging, appearance, and markings for the genuine HELLMANN'S mayonnaise products sold and distributed by Unilever through authorized trade channels ("Genuine

HELLMANN'S Products") in connection with the HELLMANN'S trademarks (the "HELLMANN'S Marks").

3. Genuine HELLMANN'S Products undergo stringent quality controls. Specifically, Unilever ensures that Genuine HELLMANN'S Products are manufactured, packaged, transported, and stored in a manner that puts consumer health and safety first and are consistent with the highest-quality of products that the HELLMANN'S brand has come to represent.

4. Unilever conducted a detailed visual inspection and analysis of Defendants' Counterfeit Products (as described and depicted in the Declaration of Benjamin Murphy, filed concurrently with my declaration). Unilever concluded that the products are almost certainly counterfeit. Specifically, the Counterfeit Products differ from the Genuine HELLMANN'S Products in at least the following respects:

- a. Unilever does not use the batch code format featured on the Counterfeit Products, below:



Instead, Unilever uses the following unique format to identify the date, plant, production line, and time on the Genuine HELLMANN'S Products:



- b. The batch code expiration date appears to be pre-printed on the label of the Counterfeit Products; Unilever does not imprint the batch code date on the labels of its Genuine

HELLMANN'S Products, rather the date is later laser coded on to the label during production, at the time the product is packaged at a plant.

- c. Genuine HELLMANN'S Products do not use the type of pressure-sensitive labels that appear on the Counterfeit Products (shown above).
- d. Unlike the Genuine HELLMANN'S Products, the shrink wrap around the case of the Counterfeit Products appeared loose, not properly sealed, and likely taped over with product tape:



The shrink wrap on the Genuine HELLMANN'S Products goes through the heat tunnel process to ensure that the shrink wrap is tightly attached to the jars to secure them during transporting the products. By contrast, the shrink wrap on the Counterfeit Products is loose.

- e. The graphic on the following Counterfeit Product label differs from the graphic on the Genuine HELLMANN'S Products:



**Counterfeit Product**



**Genuine HELLMANN'S Product**

Specifically, the Genuine HELLMANN'S Product label features an image of eggs on a yellow background. By contrast, the Counterfeit Product label features an image of eggs on a blue background, and the image also appears to be upside down.

5. The Genuine HELLMANN'S Products have a shelf life of 300 days. The Counterfeit Products claim a purported April 3, 2023 "best use by" date, which exceeds the 300-day shelf life, further confirming that the products are likely not genuine.

6. Based on the facts detailed above, Unilever believes that the Counterfeit Products are almost certainly counterfeit HELLMANN'S mayonnaise products not manufactured or authorized by Unilever.

7. Unilever has not authorized Defendants' use of the HELLMANN'S Marks and/or their use, sale, or distribution of the Counterfeit Products with the HELLMANN'S Marks.

8. Because the Counterfeit Products are not subjected to Unilever's quality control testing/measures and are manufactured, distributed, and/or sold without Unilever's authorization, they could threaten consumer health and safety and cause substantial harm to consumers.

9. Not only do the Counterfeit Products create a substantial risk of harm to consumer health and safety, their sales and distribution will likely irreparably harm Unilever, Unilever's reputation, and its hard-earned goodwill in the HELLMANN'S Marks.

10. To stop Defendants' sale, offering for sale, manufacture, distribution, and marketing of Counterfeit Products, Unilever respectfully requests that this Court grant Unilever's TRO Application in its entirety.

11. Unilever has not publicized the relief sought in the TRO Application.

12. Without the requested relief, Defendants' unlawful activities will continue unabated, and Unilever and consumers will suffer irreparable harm, including risk to consumer health and safety.

13. Monetary damages alone cannot adequately compensate Unilever for the ongoing infringement because monetary damages fail to address the risk to public health and safety and the loss of control of and damage to Unilever's reputation and goodwill.

I declare under penalty of perjury under the laws of the United States of America the foregoing is true and correct.

Executed on April 26, 2022 in Ashburn, Virginia.

  
Melanie Luca